

Congress of the United States

Washington, DC 20515

October 15, 2010

President Barack Obama
The White House
1600 Pennsylvania Ave NW
Washington, DC 20500

Dear Mr. President:

We are contacting you regarding Executive Order 13508 (EO) on Chesapeake Bay Protection and Restoration. The Environmental Protection Agency (EPA) recently announced a public review period of the draft Total Maximum Daily Load (TMDL) for the Chesapeake Bay watershed. Since announcement of the EO last year, we have worked with our constituents to ensure the State Watershed Implementation Plans (WIPs) submitted to EPA as part of this process were effective yet feasible to achieve nutrient reductions. Unfortunately, the time period EPA provided for individuals to comment on the draft TMDL and for the States to respond to EPA's WIP comments is insufficient. We ask that you approve an extension of 120 days for both the public and the States to respond before EPA finalizes the TMDL and potentially implements a federal backstop strategy.

The health of the Chesapeake Bay Watershed is important to us all. EPA officials have frequently said that restoring the Chesapeake Bay will not be easy otherwise we would have done it by now. We agree. The restoration of the Bay is something we all want, but from our review and initial feedback from constituents the draft TMDL proposes to significantly expand the authority of the EPA, raising legal ramifications and procedural issues in the development of the draft TMDL. Imposing unfunded mandates on States experiencing budget stress and high unemployment is not going to solve the Bay problems. This approach is far from innovative, far from efficient and far from changing things for the Bay.

Multiple Government Accountability Office (GAO) studies have found the Chesapeake Bay Program lacks proper integration and assessment capabilities. For decades, GAO reports have indicated EPA has not been able to properly measure and assess restoration efforts. Requiring States to write comprehensive WIPs meeting a host of EPA requirements that EPA *itself* cannot identify, measure, or monitor, is a prescription for failure. If we are all interested in solving problems and not repeating the mistakes of the last three decades then we must work together to develop a truly integrated and flexible approach that relies on good science. As released, the EPA draft TMDL does not seem headed in this direction.

Critical to Bay restoration is a realization of what is achievable. We do not believe that regulating multiple sectors via TMDL permits is practicable nor will it serve to restore the Bay; simply, we cannot permit our way to restoration. Further, the data being used to develop the TMDL is problematic and may bring into question the credibility of the entire process. Designating small to medium sized farms as concentrated animal feeding operations and therefore regulating them as point sources is counter to long-standing national agricultural practice, policy and regulation. Increasing the amount of bureaucracy and adding to the cost of production for these already financially strained constituents will likely result in more loss of farmland to development. By assuming foresters harvest timber every year instead of the actual 30-40 year average rotation (at minimum), the TMDL could have a devastating impact on the lumber and timber industry during already challenging times. Lastly, requiring all wastewater treatment facilities to upgrade their facility using "best technology" standards will cost at a minimum \$28M per facility. This could economically ruin our rural communities and residents. EPA should give the States more time before the Agency implements a federal backstop plan that puts them in charge of sectors and communities that they currently do not have authority over.

Additionally, EPA has stated in the document '*A Coming Together for Clean Water: EPA's Strategy for Achieving Clean Water*,' that "the Chesapeake Bay watershed will be a model for watershed protection in other parts of the country." Given the national impact of the Bay TMDL, a 45 day comment period does not seem adequate. Further, those who will be impacted deserve the time to study the draft, attend the public meetings, and comment on the proposal. As scheduled, the comment period ends five short days after the last public meeting and does not allow for sufficient time to attend, review, and draft comments for submission. Given the significant impact that this TMDL will have on the communities and residents of the Bay Watershed, and the precedent it will set for the rest of the nation, we request that the comment period be extended to a minimum of 120 days. This will give all those affected by this TMDL time to review the proposal. Additionally, it will still allow EPA sufficient time in developing the TMDL by the May 2011 deadline.

We appreciate your prompt attention to this matter and we look forward to continuing to work with you on this issue as you develop the Bay's TMDL.

Sincerely,



Tim Holden



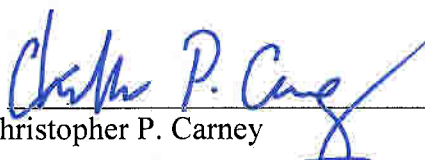
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Bob Goodlatte



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Christopher John Lee


Cynthia M. Lummis


Bill Shuster


Glenn Thompson

cc: Lisa Jackson, Administrator, U.S. Environmental Protection Agency
Tom Vilsack, Secretary, U.S. Department of Agriculture